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EXAMINER
POLLOCK, GREGORY A

ART UNIT	PAPER NUMBER
3695	

NOTIFICATION DATE	DELIVERY MODE
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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	Application No.	Applicant(s)
Office Action Summary	10/769,075	CULBRETH ET AL.
	Examiner	Art Unit	
	GREG POLLOCK	3695	

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address* --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS,
WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
  after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
  earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>19 May 2010</u>.

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is
closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>3-8,10,14,15,17,18,23-26 and 28-37</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>3-8,10,14,15,17,18,23-26 and 28-37</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage
        application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☒ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date <u>05/19/2010</u>.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application

6)☐ Other: _____.

DETAILED ACTION

1.   This action is responsive to claims filed 05/19/2010 and Applicant's request for

reconsideration of application 10/769075 filed 05/19/2010.

The amendment contains original claims 8 and 24.

The amendment contains previously presented claims 25 and 26.

The amendment contains amended claims 3-7, 10, 14, 15, 17, 18, and 23.

The amendment contains new claims 28-37.

Claims 1, 2, 9, 11-13, 16, 19-22, and 27 have been canceled.

As such, claims 3-8, 10, 14, 15, 17, 18, 23-26, and 28-37 have been examined

with this office action.

Information Disclosure Statement

2.   The information disclosure statement filed 05/19/2010 has been received,

considered as indicated, and placed on record in the file.

Claim Rejections - 35 USC § 112

3.   The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly
claiming the subject matter which the applicant regards as his invention.

4.   **Claim 37** is rejected under 35 U.S.C. 112, second paragraph, as being indefinite

for failing to particularly point out and distinctly claim the subject matter which

applicant regards as the invention. Claim 37 is not sufficiently precise due to the

combining of two different statutory classes of invention in a single claim. The

preamble the claim refers to an apparatus (a computer-readable medium), but

the body of the claim discusses the specifics of a method (as indicated by such

action words as generating, sending, receiving, and displaying). A claim is

considered indefinite if it does not apprise those skilled in the art of its scope.

Amgen, Inc. v. Chugai Pharm. Co., 927 F. 2d 1200, 1217 (Fed. Cir. 1991). A

claim is considered indefinite if it does not apprise those skilled in the art of its

scope. Amgen, Inc. v. Chugai Pharm. Co., 927 F. 2d 1200, 1217 (Fed. Cir.

1991).

Claim Rejections - 35 USC § 101

5.   35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of
matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the
conditions and requirements of this title.

6.   **Claims** 3-8, 10, 14, 15, 17, 18, 23-26, and 28-36 are rejected under 35 U.S.C.

101 because the claimed invention is directed to non-statutory subject matter.

The claims are directed toward the statutory category of a method (process),

however based on Supreme Court precedent and recent Federal Circuit

decisions, the Office's guidance to examiners is that a statutory § 101 process

must (1) be tied to a particular machine or apparatus or (2) physically transform

underlying subject matter (such as an article or materials) to a different state or

thing. (i.e. "machine-or transformation test"). If neither of these requirements is

met by the claim, method is not a patent eligible process under § 101 and is

rejected as being directed toward non-statutory subject matter.

There are two corollaries to the machine-or-transformation test. First, a mere field
-of-use limitation in the preamble is insufficient to render an otherwise ineligible
method claim patent-eligible. The machine or transformation must impose
meaningful limits on the method claims scope to pass the test. Second,
insignificant extra-solution activity will not transform an unpatentable principle
into a patentable process. Therefore, reciting a specific machine or a particular
transformation of a specific article is an insignificant step, such as data gathering
or outputting, is not sufficient to pass the test. Nominal recitations of structure in
an otherwise ineligible method fail to make the method a statutory process. See
Benson, 409 U.S. at 71-72. As Comiskey recognized, "the mere use of the
machine to collect data necessary for application of the mental process may not
make the claim patentable subject matter." Comiskey, 499 F.3d at 1380 (citing In
re Grams, 888 F.2d 835, 839-40 (Fed. Cir.1989)). Incidental physical limitations,
such as data gathering, field of use limitations, and post-solution activity are not
enough to convert an abstract idea into a statutory process. In other words,
nominal or token recitations of structure in a method claim do not convert an
otherwise ineligible claim into an eligible one.

As example of a method claim that would not qualify as a statutory process
would be a claim that recited purely mental steps. Thus to qualify as a § 101
statutory process, the claim should positively recite the other statutory class

(thing or product) to which it is tied, for example by identifying the apparatus that accomplishes the method steps, or positively recite the subject matter being transformed, for example by identifying the material being changed to a different state. (Diamond v. Diehr, 450 US 175, 184 (1981); Parker V. Flook, 437 US 584,588 n.9 (1978); gottschalk v. Benson, 409 US 63, 70 (1972); Cochrane v Deener, 94 US 780, 787-88 (1876)). Applicant is also directed to MPEP § 2173.05p, providing guidance with respect to reciting a product and process in the same claim and MPEP § 2111.02 [R3] providing guidance with respect to the effect of limitations within the preamble of a claim.

In reference to claims, the claims do not qualify as statutory process by identifying a "particular" machine that accomplishes the method steps. For example, claim 28 recites *inter alia* the claim limits "calculating a first value for the application based at least in part on the icon data, wherein calculating the first value comprises applying a hashing algorithm to at least the icon data, and wherein the first value is a hash value; sending the first value in a database query to a database; in response to the database query, receiving one or more responses from the database; obtaining from the one or more responses a globally unique identifier for the application, wherein the globally unique identifier differs from the first value; sending the globally unique identifier in a metadata request; and in response to the metadata request, receiving metadata associated with the application.". However the limits of claim 28 do not recite

what structural apparatus is <u>performing</u> the method steps of calculating, sending,

obtaining, and receiving. Where it is unclear what is performing a method step,

such method step it is broadly interpreted to encompass all means by which the

claim limit can be performed (including a purely mental step performed by a

human). <u>A similar analysis is applicable to the remaining method claims and</u>

<u>should also be addressed in future claim amendments</u>. To resolve this

deficiency, it must be made clear that the particular machine(s) impose(s)

meaningful limitation(s) on the claim's scope (particularly claim limit(s) that are

considered a <u>core/central part of what the applicant invented)</u> by, for example,

being present in more than mere filed-of-use limitation(s), and that the use of the

particular machine(s) involves more than insignificant extra-solution actively.

Additionally, merely stating the underlying apparatus in the preamble is not

sufficient. Further, if the method step is performed by software, it must be made

clear that the software resides on a physical media and when read by a

processor executes the method steps (all of which requires support in the

specification). It is recommended that the claim be amended to clarify which

method steps are performed by automatically by code and which required human

decisions or action.

7.   35 U.S.C. §101 requires that in order to be patentable the invention must be <u>a</u>

"new and useful process, machine, manufacture or composition of matter or new

and useful improvement thereof" (emphasis added). Applicant's **claim 37** is

intended to embrace or overlap two different statutory classes of invention as set

forth in 35 U.S.C. §101. The preamble the claim refers to an apparatus (a

computer-readable medium), but the body of the claim discusses the specifics of

a method (as indicated by such action words as generating, sending, receiving,

and displaying).   (see rejection of claims under 35 U.S.C. §112, second

paragraph, for specific details regarding this issue)." a claim of this type is

precluded by express language of 35 U.S.C. §101 which is drafted so as to set

forth statutory the statutory classes of invention in the alternative only", Ex parte

Lyell (17USPQ2d 1548).

Claim Rejections - 35 USC § 103

8.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

9.   Claims 6-8, 10, 14, 15, 17, 18, and 24-26 are rejected under 35 U.S.C. 103(a) as

being unpatentable over Meyer et al. (U.S. Application No. 20010031066) in view

of Fredlund et al. (U.S. Patent No. 6111950) in further view of Both (U.S. Patent

No. 7412449) in further view of Palliyll e al. (U.S. Application No. 20050131900).

As per claim 23, Meyer et al. teaches **in a computer system** ([¶118, line 1]), **a
method of querying a database for information pertaining to a software
application installed on the computer system, the software application
comprising a plurality of files on the computer system, the files comprising**

at least an executable file and graphical icon data, the executable file
having a name, the method comprising:
generating a first application identifier for a software application, wherein
generating the first application identifier comprises generating a hash
value with a hashing algorithm (binary data [¶13, line 4] and hashed metadata
[¶28, lines 9-20], where metadata can include distinct application binary data
comprising the software application.). Meyer et al. further teaches a method
wherein the application data further comprises a name of the software
application (hashed metadata [¶28, lines 9-20])

Meyer et al. does not teach a hashing function applied to distinct application
data comprising a combination of at least the graphical icon data of the
software application and the name of the executable file for the software
application and displaying information from the response in a graphical
user interface, sending a query for a globally unique identifier for the
software application to the database, the query comprising the first
application identifier and receiving a response to the query from the
database, wherein the response comprises the globally unique identifier for
the software application, and wherein the globally unique identifier differs
from the first identifier.

Fredlund et al. teaches a hashing function applied to distinct application
data comprising a combination of at least the graphical icon data of the
software application (hashing signature created from the image data or files
[Abstract] [column 2, lines 45-57] [column 5, line 58 – column 6, line 25]) (Note
that the term "icon" in the claim limits is non-functional descriptive language, and
does not change the functional operation of the method or system. There is
functionally no difference between graphical data as found in prior art and
graphical icon data presently claimed by the applicant. Further, it is old and well
known in the art that graphical icon data related as used for software applications
are stored just as any other graphical data.)

It would have been obvious to one skilled in the art at the time of the invention to
have combined the invention of Fredlund et al. with that of Meyer et al. to achieve
the claimed invention. Fredlund et al. provides the association of image data with
an application program. Use of this association within Meyer et al. enables
metadata searches for application programs based on their associated image file
signature. Both Meyer et al. [¶12, lines 1-8] and Fredlund et al. acknowledges
that other uses for their invention would be apparent to one skilled in the art. One
skilled in the art would be motivated to combine the inventions because Fredlund
et al. provides media such that an application will only operate with the images
associated with in, thereby providing the consumer with the application limited to
the needs of the user and at low cost. Meyer et al. makes the invention of

Fredlund et al. more user friendly by providing metadata to the user useful in supplying auxiliary data as desired.

Meyer et al. and Fredlund et al. doe not indicate that **and the name of the executable file for the software application and displaying information from the response in a graphical user interface, and** sending a query for a globally unique identifier for the software application to the database, the query comprising the first application identifier and receiving a response to the query from the database, wherein the response comprises the globally unique identifier for the software application, and wherein the globally unique identifier differs from the first identifier

Both teaches a method of hashing **the name of the executable file for the software application** ([Abstract] [column 3, lines 50-59]) **and displaying information from the response in a graphical user interface** (a user or a program can initiate the file object retrieval [column 3, lines 50-59])

It would have been obvious to one skilled in the art at the time of the invention to have combined the invention of Both with that of Meyer et al. and Fredlund et al. to obtain the claimed invention. One would be motivated to combine the inventions because Both provides hashing which can be used to index and retrieve file objects in a database management system because it is faster to find the file object using the shorter hash value than to find it using the original string.. Thus both the cost of storage and the amount of time required to find the file object are reduced due to the use of a shorter hash value than that of the original string.

Palliyll e al. teaches **sending a query for a globally unique identifier for the software application to the database, the query comprising the first application identifier** and **receiving a response to the query from the database, wherein the response comprises the globally unique identifier for the software application, and wherein the globally unique identifier differs from the first identifier** ([¶213-216]).

It would have been obvious to one of ordinary skill in the art at the time of the invention to have combined Palliyll e al. with the previous prior art to achieve the claimed invention. The motivation to use Palliyll e al. would have been that it reduces network congestion, load on the remote system, and traffic over the bandwidth-sensitive connection (if the resource was retrieved locally before the majority of the resource was transferred from the remote system), but a significant advantage of the solution is the potential reduction in the time taken for resource retrieval. The larger the resource to be retrieved, and the more constrained the available bandwidth of the bandwidth-sensitive connection, the

greater the benefit of retrieving the resource from within the LAN

As per claim 6, the rejection of claim 23 has been addressed.
Meyer et al. does not specifically teach a method where **the graphical icon data is obtained from an icon file.**

Fredlund et al. teaches a method where **the graphical icon data is obtained from an icon file** (hashing signature created from the image data or files [Abstract, [column 5, line 58 – column 6, line 25]).

(Note that the term "icon" in the claim limits is non-functional descriptive, and does not change the functional operation of the method or system. There is functionally no difference between graphical data as found in prior art and graphical icon data as claimed. Further, it is old and well known in the art that graphical icon data related to software applications are stored just as any other graphical data.).

It would have been obvious to one skilled in the art at the time of the invention to have combined the invention of Fredlund et al. with that of Meyer et al. to achieve the claimed invention. Fredlund et al. provides the association of image data with an application program. Use of this association within Meyer et al. enables metadata searches for application programs based on their associated image file signature. Both Meyer et al. [¶12, lines 1-8] and Fredlund et al. acknowledges that other uses for their invention would be apparent to one skilled in the art. One skilled in the art would be motivated to combine the inventions because Fredlund et al. provides media such that an application will only operate with the images associated with in, thereby providing the consumer with the application limited to the needs of the user and at low cost. Meyer et al. makes the invention of Fredlund et al. more user friendly by providing metadata to the user useful in supplying auxiliary data as desired.

As per claim 7, the rejection of claim 23 has been addressed.
Meyer et al. teaches a method **further comprising comparing the application identifier with a list of application identifiers** (maps the identifier to actions [¶22, line 14 17], where the identifier can be generated using hashing [¶28, lines 18-20] and [¶48]) **to determine an attribute of the software application** ([¶22, lines 10 to ¶23 line 4], where the data which is returned is metadata (see Figure 1). Metadata, or auxiliary data , may provide information describing the attributes of the software application [¶4 lines6-10]).

As per claim 8, the rejection of claim 23 has been addressed.
Meyer et al. teaches a method **wherein the attribute comprises a parental control rating for the software application** ("inappropriate content for children" [¶23, line 19-21] and metadata [¶22, line 10 - ¶23 line 4]).

As per claim **10**, the rejection of claim 23 has been addressed.
Meyer et al. teaches a method **wherein a database receives the database query** ([¶23, lines 12-14], [¶31, line 9], [¶51, lines 9-12]), **and wherein the database returns results indicating whether metadata relating to the software application can be obtained from a metadata service** (metadata is returned [Abstract lines 6-9], [¶ 22 lines 10-14], [¶23 lines 1-2], [¶23 lines 17-19], [¶24 lines 2-3], [¶25 lines 11-14], [¶31 lines 1-12] and the server responds to user if no association if found [¶7 lines 13-19]).

As per claim **14**, the rejection of claim 23 has been addressed.
Meyer et al. and Fredlund et al. do not specifically teach that **the application identifier is a unique** ([Abstract]) **fixed-length string**

Both teaches a method **wherein the application identifier is a unique** ([Abstract]) **fixed-length string** ([column 2, lines 48-52]).

It would have been obvious to one skilled in the art at the time of the invention to have combined the invention of Both with that of Meyer et al. and Fredlund et al. to obtain the claimed invention. One would be motivated to combine the inventions because Both provides hashing which can be used to index and retrieve file objects in a database management system because it is faster to find the file object using the shorter hash value than to find it using the original string.. Thus both the cost of storage and the amount of time required to find the file object are reduced due to the use of a shorter hash value than that of the original string.

As per claim **15**, the rejection of claim 23 has been addressed.
Meyer et al. teaches a method **further comprising storing the application identifier in a data file along with one or more other application identifiers for other software applications** ([¶18, line 6] and [¶28, line 19], where a database is the data file.).

As per claim **17**, the rejection of claim 23 has been addressed.
Meyer et al. teaches a method **wherein the application data further comprises registry data** ([¶15, lines 1-6], [¶18 line 1 to ¶19, line 5]).

As per claim **18**, the rejection of claim 23 has been addressed.
Meyer et al. teaches a method **wherein the software application is a gaming-related software application** (hashing [¶28, lines 18-20] and [¶48], where "gaming- related software application" is non-functional descriptive matter. Further, "gaming- related software application" is old and well known in the art, see Alcorn et al (U.S. Patent 7063615) as an example.).

As per claim 24, the rejection of claim 23 has been addressed.
All of the limits of Claim 24 have been previously addressed in Claim 18 and 23, and is therefore rejected using the same prior art and rationale.

As per claim 25, the rejection of claim 23 has been addressed.
Meyer et al. **further teaches a method wherein the query to the application database comprises a request for metadata relating to the software application, and wherein the response to the query comprises metadata relating to the software application** [¶22, lines 10 to ¶23 line 4]).

As per claim 26, the rejection of claim 23 has been addressed.
All of the limits of Claim 26 have been previously addressed in Claim 8, and is therefore rejected using the same prior art and rationale..

10.   Claims 3-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Meyer et al. (U.S. Application No. 20010031066) in view of Fredlund et al. (U.S.

Patent No. 6111950) in further view of Both (U.S. Patent No. 7412449) in further

view of Palliyil e al. (U.S. Application No. 20050131900) in further view of official

notice.

As per claim 3, the rejection of claim 23 has been addressed.
Meyer et al. and Fredlund et al. do not specifically teach that **the hashing algorithm is a one-way hashing algorithm.**

One-way hashing algorithms are old and well known in the art (see Naor et al. (Moni Naor and Moti Young, "Universal One-Way Hash Functions and their Cryptographic Applications", appearing in Proceedings of the Twenty First Annual ACM Symposium on Theory of Computing. (May 15--17 1989: Seattle, WA, USA) [¶1, lines 1] as an example). Note that the use of a specific hashing algorithm is a design choice and does not functionally change the operation of the method.

It would be obvious to one of ordinary skill in the art at the time of the invention to have used a one-way hashing algorithm within the inventions of Meyer et al. and Fredlund et al. One would be motivated to use a one-way hashing algorithm within the inventions of Meyer et al. and Fredlund et al. because one-way hashing algorithms have the main property that for every given input, it is computationally hard to find a different domain element input which collides with

that input. This feature would increase the reliability of the inventions of Meyer et al. and Fredlund et al. by ensuring that search algorithms find one and only one search object for every input request.

As per MPEP § 2144.03(C), with respect to an Examiner's use of Official Notice:

To adequately traverse such a finding, an applicant must specifically point out the supposed errors in the examiner's action, which would include stating why the noticed fact is not considered to be common knowledge or well-known in the art. See 37 CFR 1.111 (b).

The same section continues:

If applicant does not traverse the examiner's assertion of official notice or applicant's traverse is not adequate, the examiner should clearly indicate in the next Office action that the common knowledge or well-known in the art statement is taken to be admitted prior art because applicant either failed to traverse the examiner's assertion of official notice or that the traverse was inadequate. If the traverse was inadequate, the examiner should include an explanation as to why it was inadequate.

Applicant has not challenged or traversed the examiner's use of official notice in

the previous office action, and repeated herein. As such, the examiner now

considers as admitted prior art, that "that one-way hashing algorithms are old and

well known in the art" are taken to be admitted as prior art considered to be

common knowledge or well-known in the art.

As per claim 4, the rejection of claim 23 has been addressed.
Meyer et al. and Fredlund et al. do not specifically teach that **the application identifier is a 20-byte hash value.**

Generated a 20-byte hash values are old and well known in the art (see Naor et al. (Moni Naor and Moti Young, "Universal One-Way Hash Functions and their Cryptographic Applications", appearing in Proceedings of the Twenty First Annual ACM Symposium on Theory of Computing. (May 15--17 1989: Seattle, WA, USA) [paragraph 8, line 8-9] as an example). Note that the use of a specific hashing algorithm is a design choice and does not functionally change the operation of the method.

It would be obvious to one of ordinary skill in the art at the time of the invention to have generated a 20-byte hash value within the inventions of Meyer et al. and Fredlund et al. One would be motivated to have generated a 20-byte hash value within the inventions of Meyer et al. and Fredlund et al. because the

transformation of a string of text characters into a generally shorter, fixed-length hash value that represents the original string can be used to index and retrieve file objects in a database management system faster when finding file objects using the shorter hash value than to find it using the original string. It is noted again that the length of the hash value is a design choice and function can be of any length that is smaller than the object being searched to gain the benefits of hashing.

As per MPEP § 2144.03(C), with respect to an Examiner's use of Official Notice:

To adequately traverse such a finding, an applicant must specifically point out the supposed errors in the examiner's action, which would include stating why the noticed fact is not considered to be common knowledge or well-known in the art. See 37 CFR 1.111 (b).

The same section continues:

If applicant does not traverse the examiner's assertion of official notice or applicant's traverse is not adequate, the examiner should clearly indicate in the next Office action that the common knowledge or well-known in the art statement is taken to be admitted prior art because applicant either failed to traverse the examiner's assertion of official notice or that the traverse was inadequate. If the traverse was inadequate, the examiner should include an explanation as to why it was inadequate.

Applicant has not challenged or traversed the examiner's use of official notice in the previous office action, and repeated herein. As such, the examiner now considers as admitted prior art, that "that generated a 20-byte hash values are old and well known in the art" are taken to be admitted as prior art considered to be common knowledge or well-known in the art.

As per claim 5, the rejection of claim 23 has been addressed.
Meyer et al. and Fredlund et al. do not specifically teach that **graphical icon data is obtained from an application binary.**

Obtaining graphical data from an application binary is old and well known in the art (see Tynan et al. (PGPub No. 20020032489) [¶20 lines 2-4] as an example).

It would be obvious to one of ordinary skill in the art at the time of the invention that the graphical data within the inventions of Meyer et al. and Fredlund et al. would be stored and obtained in binary form. From Fredlund et al. [¶68], ¶78], [¶90], [¶125], [¶208] [¶423], [¶503-509], [¶599], [¶651-697] it is clear that the digital signals (or objects) are stored and processed in binary form. One would be

motivated to obtain graphical data in binary form since this is the standard form for storage and processing of information in a computer system, making the inventions of Meyer et al. and Fredlund et al. compatible, and therefore, more marketable to users.

As per MPEP § 2144.03(C), with respect to an Examiner's use of Official Notice:

To adequately traverse such a finding, an applicant must specifically point out the supposed errors in the examiner's action, which would include stating why the noticed fact is not considered to be common knowledge or well-known in the art. See 37 CFR 1.111 (b).

The same section continues:

If applicant does not traverse the examiner's assertion of official notice or applicant's traverse is not adequate, the examiner should clearly indicate in the next Office action that the common knowledge or well-known in the art statement is taken to be admitted prior art because applicant either failed to traverse the examiner's assertion of official notice or that the traverse was inadequate. If the traverse was inadequate, the examiner should include an explanation as to why it was inadequate.

Applicant has not challenged or traversed the examiner's use of official notice in the previous office action, and repeated herein. As such, the examiner now considers as admitted prior art, that "that obtaining graphical data from an application binary is old and well known in the art " are taken to be admitted as prior art considered to be common knowledge or well-known in the art.

11.   Claims 28-30 and 32-37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Meyer et al. (U.S. Application No. 20010031066) in view of Fredlund et al. (U.S. Patent No. 6111950) in further view of Both (U.S. Patent No. 7412449) in further view of Palliyll e al. (U.S. Application No. 20050131900) in further view of Yau et al. (U.S. Application No. 20020066026).

As per claim 28, Yau et al. teaches **sending the globally unique identifier in a metadata request; and in response to the metadata request, receiving metadata associated with the application** ([¶46]).

It would have been obvious to one of ordinary skill in the art at the time of the invention to have combined Yau et al. with the previous prior art to achieve the claimed invention. The motivation to use Yau et al. would have been that it provides an improved system and method for distributing data to multiple nodes on a network efficiently by utilizing the network bandwidth of the recipient nodes. Yau et al.'s approach reduces the bandwidth and system requirements of a centralized server or a distributed set of servers utilized by the data source. In addition to lowering costs associated with a centralized data source server, the invention can also reduce overall delivery time to recipients.

All of the limits of Claim 28 have been previously addressed in Claim 8, and is therefore rejected using the same prior art and rationale.

As per claim 29, the rejection of claim 21 has been addressed.
All of the limits of Claim 29 have been previously addressed in Claim 28, and is therefore rejected using the same prior art and rationale. Note that applying the method steps to "games" does not functionally change the operation of the method.

As per claim 30, the rejection of claim 21 has been addressed.
All of the limits of Claim 30 have been previously addressed in Claim 10, and is therefore rejected using the same prior art and rationale. Note that the selection of the icon is a design choice and does not functionally change the operation of the method.

As per claim 32, the rejection of claim 31 has been addressed.
Yau et al. teaches **at least one of the one or more responses indicates that a match for the first value was found in the database** ([¶46]).

It would have been obvious to one of ordinary skill in the art at the time of the invention to have combined Yau et al. with the previous prior art to achieve the claimed invention. The motivation to use Yau et al. would have been that it provides an improved system and method for distributing data to multiple nodes on a network efficiently by utilizing the network bandwidth of the recipient nodes. Yau et al.'s approach reduces the bandwidth and system requirements of a centralized server or a distributed set of servers utilized by the data source. In addition to lowering costs associated with a centralized data source server, the invention can also reduce overall delivery time to recipients.

As per claim 33, the rejection of claim 31 has been addressed.
All of the limits of Claim 33 have been previously addressed in Claim 23, and is therefore rejected using the same prior art and rationale.

As per claim 34, the rejection of claim 31 has been addressed.

Palliyll e al. teaches **sending a shortcut link to the database; wherein the one or more responses comprise a list of possible matches for the shortcut link in the database ([¶18] [108-166]).**

It would have been obvious to one of ordinary skill in the art at the time of the invention to have combined Palliyll e al. with the previous prior art to achieve the claimed invention. The motivation to use Palliyll e al. would have been that it reduces network congestion, load on the remote system, and traffic over the bandwidth-sensitive connection (if the resource was retrieved locally before the majority of the resource was transferred from the remote system), but a significant advantage of the solution is the potential reduction in the time taken for resource retrieval. The larger the resource to be retrieved, and the more constrained the available bandwidth of the bandwidth-sensitive connection, the greater the benefit of retrieving the resource from within the LAN

As per claim 35, the rejection of claim 31 has been addressed.
All of the limits of Claim 35 have been previously addressed in Claim 28, and is therefore rejected using the same prior art and rationale.

As per claim 36, the rejection of claim 31 has been addressed.
All of the limits of Claim 36 have been previously addressed in Claim 23, and is therefore rejected using the same prior art and rationale.

As per claim 37, Meyer et al. teaches **a computer-readable medium having stored thereon computer-executable instructions operable to cause a computer to perform a method ([¶93-99]** Note that claim limitations that employ phrases of the type "operable to" are typical of claim limitations which may not distinguish over prior art according to the principle. It has been held that the recitation that an element is "operable to" perform or is "capable of" performing a function is not a positive limitation but only requires the ability to so perform. As such, any limit which follows such phrases can be treated as merely language of intended use, not a claim limitation.)

All of the limits of Claim 37 have been previously addressed in Claim 23, 28 and 29, and is therefore rejected using the same prior art and rationale.

12.   Claim 31 is rejected under 35 U.S.C. 103(a) as being unpatentable over Meyer et

al. (U.S. Application No. 20010031066) in view of Fredlund et al. (U.S. Patent

No. 6111950) in further view of Both (U.S. Patent No. 7412449) in further view of

Palliyll e al. (U.S. Application No. 20050131900) in further view of Yau et al.

(U.S. Application No. 20020066026) in further view of official notice.

As per claim 31, the rejection of claim 21 has been addressed.
All of the limits of Claim 31 have been previously addressed in Claim 3, and is
therefore rejected using the same prior art and rationale. Note that the use of a
specific hashing algorithm is a design choice and does not functionally change
the operation of the method.

Response to Arguments

13. Applicant's arguments with respect to claims 1-20 have been considered but are

moot in view of the new ground(s) of rejection necessitated by applicant's

amendment to claims. The rejection above serves as the examiners response to

the applicant's arguments.

14. <u>APPLICANT REMARKS CONCERNING Use of Official Notice:</u> The applicant

states that with regard to claim 22 (now canceled), Applicant notes that the

Action appears to take Official Notice that "'gaming-related software applications'

are old and well known in the art" at page 15. Applicant does not dispute that

gaming-related software per se is well-known. However, to the extent that the

Action asserts that any combination related to games or gaming- related software

was well-known (such as a combination with the elements of claim 20, from

which claim 22 formerly depended), Applicants traverse and respectfully <u>demand</u>

proof.

With regard to claim 1 (now canceled), the Action states "it is old and well known in the art that graphical icon data.., are stored just as any other graphical data." Applicants respectfully disagree and <u>demand</u> proof. For example, icon data may be stored in an icon file.

With regard to claim 3, Applicants note that the Action takes as admitted prior art "that one-way hashing algorithms are old and well known in the art" at page 12. To the extent that the Action asserts that any combination involving language of claim 3 (such as a combination with the elements of claim 1, from which claim 3 formerly depended) was well-known, Applicants traverse and respectfully <u>demand</u> proof.

With regard to claim 4, Applicants note that the Action takes as admitted prior art "that generated a 20-byte hash values are old and well known in the art" at page 13. To the extent that the Action asserts that any combination involving language of claim 4 (such as a combination with the elements of claim 1, from which claim 4 formerly depended) was well-known, Applicants traverse and respectfully <u>demand</u> proof.

With regard to claim 5, Applicants note that the Action takes as admitted prior art "that obtaining graphical data from an application binary is old and well known in the art" at page 14. To the extent that the Action asserts that any combination involving language of claim 5 (such as a combination with the elements of claim 1, from which claim 5 formerly depended) was well- known, Applicants traverse and respectfully <u>demand</u> proof.

EXAMINER'S RESPONSE: The Examiner respectfully disagrees with Applicant's arguments. First, the examiner has already provided references indicating that each of the concepts are old and well known. Second, many of the concepts the applicant has claimed are design choices and do not functionally change the operation of the method or system. Hashing functions used against any binary information is not new or novel. It is clear from the specification that the applicant has not created a new hashing algorithm or that hashing a different set of binary files leads to unexpected results. The choice of hashing algorithm and set of hashed binary files appears to be completely a matter of design whose results would be expected. Third, non-functional descriptive matter (such as game) when describing data or a field of use and does not change the functional operation of the method or system. Stated another way, the method or system does not change based on the material (gaming applications) that it works upon. Forth, the demand for proof of concepts for which official notice was taken is not timely. As per MPEP § 2144.03(C), with respect to an Examiner's use of Official Notice:

To adequately traverse such a finding, an applicant must specifically point out the supposed errors in the examiner's action, which would include stating why the noticed fact is not considered to be common knowledge or well-known in the art. See 37 CFR 1.111 (b).

The same section continues:

If applicant does not traverse the examiner's assertion of official notice or applicant's traverse is not adequate, the examiner should clearly indicate in the next Office action that the common knowledge or well-known in the art statement is taken to be admitted prior art because applicant either failed to traverse the examiner's assertion of official notice or that the traverse was inadequate. If the traverse was inadequate, the examiner should include an explanation as to why it was inadequate.

Applicant has not challenged or traversed the examiner's use of official notice in the previous office action, and repeated herein. As such, the examiner now considers as admitted prior art, that "that one-way hashing algorithms are old and well known in the art" are taken to be admitted as prior art considered to be common knowledge or well-known in the art.

15.   Therefore, in view of the above reasons, Examiner maintains rejections.

Conclusion

16.   The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- Kagle et al. (PGPub No. 20020133515) teaches a method and system for synchronizing multiple versions of multimedia objects is provided. Each multimedia object may be identified by a unique identifier. In addition, a history graph may be generated and maintained for each object, where the history graph includes nodes that store unique identifiers and whose vectors describe the relationship between the multimedia objects. Metadata may be used to describe the transformations of object. The unique identifier may be a Global Unique Identifiers (GUID). GUIDs are usually easy to generate and large enough to support unique identifiers.

- Pham et al. (PGPub No. 20040107342) teaches secure network file access control system using Global Unique Identifiers (GUID).

17.　　Applicant's amendment necessitated the new ground(s) of rejection presented in

this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP §

706.07(a). Applicant is reminded of the extension of time policy as set forth in 37

CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed

within TWO MONTHS of the mailing date of this final action and the advisory

action is not mailed until after the end of the THREE-MONTH shortened statutory

period, then the shortened statutory period will expire on the date the advisory

action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be

calculated from the mailing date of the advisory action. In no event, however, will

the statutory period for reply expire later than SIX MONTHS from the date of this

final action.

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Gregory Pollock whose telephone number is 571

270-1465. The examiner can normally be reached on 7:30 AM - 4 PM, Mon-Fri

Eastern Time.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Chuck Kyle can be reached on 571 272-5233. The fax phone

number for the organization where this application or proceeding is assigned is

571-273-8300.

Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR

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direct.uspto.gov. Should you have questions on access to the Private PAIR

system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-

free). If you would like assistance from a USPTO Customer Service

Representative or access to the automated information system, call 800-786-

9199 (IN USA OR CANADA) or 571-272-1000.

GAP

07/29/2010

/Gregory Pollock/
Examiner, Art Unit 3695

Gregory A. Pollock

/Lewis A. Bullock, Jr./
Supervisory Patent Examiner, Art Unit 2193